

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

NIKITA WOODS,

Plaintiff,

vs.

IKE JESSEE, SARAH GROTHO,
JILL MILLER, MARY GETTEL, and
LORRE CLARK,

Defendants.

**CV 14-94-GF-BMM-JTJ
CV 15-04-GF-BMM-JTJ**

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS OF UNITED
STATES MAGISTRATE JUDGE**

NIKITA WOODS,

Plaintiff,

vs.

SARAH GROTHO, MARY GETTEL,
and LORI CLARK,

Defendants.

The Court has consolidated these proceedings and referred them to United States Magistrate Judge John Johnston. Plaintiff Nikita Woods proceeds in forma

pauperis. Woods alleges that Defendants wrongfully terminated her parental rights. Defendant Mary Gettel filed motions to dismiss the claims against her for failure to state a claim. (Docs. 19; 23.) Woods alleges specifically that Gettel “made up false reports and slander plus harassment” and “racially judg[ed]” Woods. (Doc. 36 at 3.)

Judge Johnston entered Findings and Recommendations in this matter on May 2, 2016. (Doc. 36.) Judge Johnston recommended that this Court dismiss Woods’s claims against Defendant Gettel as she enjoys immunity from suit.

Woods timely filed objections to Judge Johnston’s Findings and Recommendations on May 16, 2016. (Doc. 37.) The Court reviews de novo Findings and Recommendations to which objections are made. 28 U.S.C. § 636(b)(1). The Court will review for clear error the portions of the findings and recommendations to which no party specifically objected. *McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc.*, 656 F.2d 1309, 1313 (9th Cir.1981). Where a party’s objections constitute perfunctory responses argued in an attempt to engage the district court in a rehashing of the same arguments set forth in the original response, however, the Court will review the applicable portions of the findings and recommendations for clear error. *Rosling v. Kirkegard*, 2014 WL 693315 *3 (D. Mont. Feb. 21, 2014) (internal citations omitted).

Woods raises several objections to the Findings and Recommendations. (Doc. 37.) Many objections attempt to make factual corrections that do not affect the legal outcome. (*Id.*) Woods objects specifically to the Court dismissing her claims against Gettel. (*Id.*) After reviewing Woods's objections, the Court finds that her objections lack merit and simply restate the allegations made in Response to the Motion to Dismiss. (Doc. 32.)

Gettel acted in her capacity as a CASA-CAN volunteer rather than a state employee when she allegedly made certain statements, which Woods alleges constitute defamation. Gettel's statements still fail to constitute defamation even if this Court were to consider Gettel a state actor. Gettel made statements during a judicial proceeding. As such, those statements prove privileged. Mont. Code Ann. § 27-1-804(2). Gettel additionally enjoys immunity from suit as she was acting within the judicial process. *Balthrope v. Sacramento Co. of Health and Hum. Services*, 2011 WL 6130903, at *4 (E.D. Cal. December 8, 2011).

Woods has failed to state a claim for defamation against Defendant Gettel. This Court finds no clear error in Judge Johnston's Findings and Recommendations and adopts them in full.

IT IS HEREBY ORDERED:

1. The Findings and Recommendations (Doc. 36) are **ADOPTED IN FULL**.

2. Defendant Gettel's Motions to Dismiss (14-94, Doc. 29; 15-04, Doc. 23) are
GRANTED.

DATED this 1st day of June, 2016.

A handwritten signature in blue ink, reading "Brian Morris". The signature is written in a cursive style with a horizontal line underneath it.

Brian Morris
United States District Court Judge